

Message Text

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ACTION OES-07

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O R 071836Z JUL 77
FM AMEMBASSY LONDON
TO SECSTATE WASHDC IMMEDIATE 5910
INFO AMEMBASSY BUENOS AIRES
AMEMBASSY CANBERRA
LD? /AMEMBASSY BRUSSELS 3012
AMEMBASSY PARIS
AMEMBASSY PRETORIA
AMEMBASSY MOSCOW
AMEMBASSY OSLO
AMEMBASSY SANTIAGO
AMEMBASSY TOKYO
AMEMBASSY WARSAW
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C O N F I D E N T I A L SECTION 01 OF 03 LONDON 11240

E.O.11652: GDS
TAGS: XV, TGEN, UK
SUBJECT: ANTARCTIC TREATY: NINTH CONSULTATIVE MEETING:
NINTH MONTHLY PREPARATORY MEETING

REF: (A) STATE 152476; (B) STATE 152477; (C) STATE 141665

SUMMARY. DISCUSSION AT NINTH MONTHLY FOCUSED BRIEFLY ON
MARINE LIVING RESOURCES AND EXTENSIVELY ON PROPOSALS FOR
PROCEDURES FOR RECOGNITION OF CONSULTATIVE STATUS. CON-
SENSUS WAS REACHED ON NEED TO FIND COMPROMISE POSITION
BETWEEN U.S. PROPOSAL AND UK "SNT." HEAP STRONGLY URGED
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THAT DEPARTMENT SEND REPRESENTATIVE TO LONDON TO DISCUSS
CHANGES IN SNT WHICH MIGHT MAKE IT ACCEPTABLE TO ALL
PARTIES. WE SUPPORT HEAP'S REQUEST. END SUMMARY.

1. NINTH MONTHLY PREPARATORY MEETING WAS HELD AT FCO ON
JULY 6. AGENDA UNCHANGED FROM PREVIOUS MEETINGS. BEFORE
MEETING OPENED, CHILEAN AND SOUTH AFRICAN REPS INFORMED

US THAT DIPLOMATIC NOTES TRANSMITTING INFORMATION ON POLISH SCIENTIFIC ACTIVITIES HAD BEEN RECEIVED IN THEIR CAPITALS. THEY THANKED US FOR DEPARTMENT'S EFFORTS TO AMELIORATE THIS POTENTIALLY TOUCHY SITUATION. UNDER AGENDA ITEM I, PROVISIONAL AGENDA FOR NINTH CONSULTATIVE MEETING, ONLY ITEMS I(2) AND I(7) WERE DISCUSSED.

2. AGENDA ITEM I(2). AUSTRALIAN REP INFORMED GROUP THAT A CIRCULAR MESSAGE HAD BEEN SENT TO CAPITALS ASKING FOR CLARIFICATION OF VIEWS ON MARINE LIVING RESOURCES QUESTION. MESSAGE STATES THAT CANBERRA ATTACHES "SOME VALUE TO SUBSTANTIAL DISCUSSION OF THE FISHERIES QUESTION" AT THE SECOND EXTENDED PREPARATORY AND REQUESTS SOME INDICATION OF MAKE-UP OF DELEGATIONS. DURING GENERAL DISCUSSION WHICH FOLLOWED, MOST REPS INDICATED THAT THEIR DELEGATIONS TO SECOND EXTENDED WILL BE PREPARED TO DISCUSS ANY ITEM ON THE AGENDA AND TO GO INTO MARINE LIVING RESOURCES IN DEPTH. USSR REP NOTED INFORMALLY THAT THREE FISHERIES EXPERTS WILL JOIN HIS DELEGATION TO THE MEETING. NORWEGIAN REP STATED THAT HIS GOVERNMENT FEELS THIS IS ONE OF THE MOST IMPORTANT ISSUES ON THE AGENDA AND THAT THEY HAVE SET UP SPECIAL GROUP OF EXPERTS TO REVIEW NORWAY'S POLICIES IN THIS AREA. THOUGH EXPERTS WILL ATTEND MEETING, HE INDICATED THAT THEY WILL BE UNABLE TO TAKE ANY DEFINITIVE POSITIONS AT THAT TIME. U.S. REP OUTLINED U.S. VIEW AS CONTAINED REFTEL A.

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3. AGENDA ITEM I(7). HEAP OPENED DISCUSSION BY INTRODUCING THE SINGLE NEGOTIATING TEXT (SNT) WHICH HE CIRCULATED ON JUNE 24 AND ASKED FOR COMMENTS. IN RESPONSE, U.S. REP REITERATED STATEMENT GIVING RATIONALE FOR U.S. PROPOSAL AND DREW ON REFTEL B TO ILLUSTRATE DIFFICULTIES U.S. SEES WITH SNT. ARGENTINE REP RESPONDED IMMEDIATELY. HE SAID THAT HE HAD THOUGHT NO MORE TEXTS WOULD BE FORTHCOMING. HE POINTED OUT THAT SNT IS ALREADY A "COMPROMISE" IN WHICH ALL HAVE AGREED TO MODIFY POSITIONS ON CERTAIN POINTS AND THAT HE THINKS THIS IS QUITE FAIR. HE SAID THAT "DOCUMENT MIGHT BE A LITTLE LATE" AND THAT GROUP WILL BE BACK WHERE IT WAS SEVERAL MONTHS AGO IF DISCUSSIONS ARE NOW HELD ON BASIS OF U.S. PROPOSAL. HE ALSO STRESSED HIS VIEW THAT FIFTH PREAMBULAR PARAGRAPH BEGINNING, "RECOGNIZING THAT THE ENTITLEMENT" IS QUITE GOOD.

4. CHILEAN REP THEN JOINED FRAY. HE SAID MAIN THRUST OF U.S. ARGUMENT TENDS TO REVERSE EQUILIBRIUM GROUP HAS BEEN TRYING TO MAINTAIN BETWEEN THE TWO "NOT ANTAGONISTIC BUT DIVERSE VIEWS." HE SAID THAT IT IS IMPORTANT TO RECOG-

NIZE THAT THE RIGHT TO PARTICIPATE IS DETERMINED BY HOW
ONE VIEWS THE TREATY LANGUAGE. WHERE THERE ARE CONFLICT-
ING VIEWS, THE INTERPRETATIONS MUST BE PRECISE. ON FIFTH
PREAMBULAR PARAGRAPH OF SNT, HE NOTED U.S. CONCERN AND
SAID THAT THIS PROBABLY COULD BE MET THROUGH MODEST RE-
DRAFTING OR PERHAPS BY MENTIONING ARTICLE VII, PARAGRAPH

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5. ON OUR QUESTIONING OF THE HANDLING OF RECOMMENDA-
TIONS, HE SAID IT WAS NOT THE INTENTION TO MAKE ACCEDING
PARTIES ACCEPT THEM ALL, BUT RATHER TO ACCESS THE PARTY'S
ATTITUDE TOWARD THE TREATY. U.S. REP POINTED OUT THAT
THIS WAS SPECIFICALLY WHAT WORRIED US AND WHY WE RAISED
CONCERNS OVER PROCEDURES GOING BEYOND LANGUAGE OF THE
TREATY. CHILEAN REP RESPONDED THAT IF WE PUSH THIS

"LEGAL INTERPRETATION" TOO FAR, WE WILL GO BACK TO THE DEADLOCK WHICH WE HAVE BEEN SEEKING TO AVOID SINCE THE FIRST EXTENDED PREPARATORY. HE SUGGESTED THAT WE LOOK CONFIDENTIAL

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TO SEE WHICH POINTS ARE QUESTIONS OF DRAFTING AND WHICH ARE OF SUBSTANCE AND THEN GET TOGETHER WITH THE CHAIRMAN OF THE MONTHLY PREPARATORIES TO REDRAFT AN SNT.

5. FRENCH AND AUSTRALIAN REPS SAID THAT WHILE THEY WERE PREPARED TO ACCEPT SLIGHTLY MODIFIED SNT, THEY FEEL BOTH DOCUMENTS MAKE A VALUABLE CONTRIBUTION TO DEBATE. THEY SUPPORTED CHILEAN SUGGESTION THAT THE CHAIRMAN TRY TO GET THE "TWO SIDES" TOGETHER. BOTH REPS EXPRESSED CONCERN OVER WORDING OF PREAMBULAR PARAGRAPH 5 OF SNT. THEY SHARE U.S. VIEW THAT ENTITLEMENT TO CONSULTATIVE STATUS IS A RIGHT CONFERRED BY ARTICLE IX(2) OF THE TREATY. THEY ALSO SAID THEY APPRECIATED PRAGMATIC NATURE OF U.S. DRAFT. USSR REP SAID HIS GOVERNMENT CAN ACCEPT SNT AND POLISH STATUS PAPER. MOSCOW IS OPEN-MINDED, HOWEVER, AND WOULD CONSIDER ANOTHER DRAFT. HE MADE SUGGESTION THAT INTRODUCTION TO SNT BE AMENDED TO DROP REFERENCE TO INDIVIDUAL STATJ#

IN U.S. PROPOSAL. JAPANESE REP ALSO ACCEPTED SNT. HE SAID HIS ONLY CONCERN WAS THAT NOTHING MORE RESTRICTIVE BE PROPOSED AND THAT HE WAS CONFIDENT HIS GOVERNMENT WOULD SUPPORT A MORE FLEXIBLE APPROACH.

6. SOUTH AFRICAN REP WAS UNDER INSTRUCTIONS TO AGREE TO SLIGHTLY MODIFIED SNT. HE SUPPORTED U.S. VIEW THAT FIRST OPERATIVE PARAGRAPH INTERPRETS TREATY AND SHOULD BE REPHRASED TO QUOTE TREATY. HE ALSO AGREED WITH U.S. VIEW THAT SPECIAL CONSULTATIVES ARE NOT THE ONLY WAY TO ACHIEVE A CONSENSUS ON RECOGNITION OF CONSULTATIVE STATUS AND ASKED HOW PROCEDURES UNDER SNT WOULD BE MADE OPERATIVE. ARGENTINE REP INTERJECTED STRONG STATEMENT INSISTING ON SPECIAL CONSULTATIVE MEETING AS THE MOST APPROPRIATE WAY TO RECOGNIZE ACCESSION TO CONSULTATIVE CONFIDENTIAL

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STATUS AND STATED THAT PROCEDURES WOULD BE MADE OPERATIVE BY THEIR BEING MADE PUBLIC AT THE END OF THE MEETING. HE PLACED GREAT IMPORTANCE ON LEAVING THE LISTING OF GOVERNMENTS IN THE INTRODUCTION TO THE SNT AS THEIR REPRESENTATIVES WOULD BE ATTENDING THE CONSULTATIVE WITH "FULL POWERS" TO ACT FOR THE STATE. HEAP POINTED OUT, HOWEVER,

THAT QUESTION WAS PURELY PROCEDURAL AND IT WAS NOT IMPORTANT WHETHER REPRESENTATIVES HAD FULL POWERS OR NOT AS THE DOCUMENTS BEING PREPARED WERE NOT BINDING TREATIES.

7. HEAP WENT ON TO SUGGEST THAT FURTHER DISCUSSIONS TAKE PLACE IN ATTEMPT TO MEET U.S. OBJECTIONS TO SNT. ARGENTINE REP POINTED OUT THAT HIS GOVERNMENT FEELS SNT IS ALREADY BEST POSSIBLE COMPROMISE. ANYTHING LESS PRECISE WOULD "PERHAPS NOT BE ACCEPTABLE." HE EXPRESSED PARTICULAR CONCERN OVER THE NEED FOR ACCEPTANCE OF THE RECOMMENDATIONS AND HIS PREFERENCE FOR THE POSITIVE ASSERTION IMPLICIT IN THE PHRASE "UNANIMOUS DECISION" IN OPERATIVE PARAGRAPH 5. HE THUS RESERVED HIS GOVERNMENT'S POSITION ON HEAP'S SUGGESTION THAT DISCUSSIONS BE HELD IN ORDER TO FURTHER MODIFY THE SNT. CHILEAN REP SAID THE SAME THING BUT ALLOWED THAT FOLLOW-UP EXERCISE SHOULD PROCEED AS LONG AS IT DOES NOT PREJUDICE FUTURE ACTION.

8. IN RESPONSE, HEAP MADE LENGTHY AND RATHER PASSIONATE PLEA THAT THIS ISSUE BE QUICKLY RESOLVED AS IN HIS VIEW THE FUTURE OF THE CONSULTATIVE MEETING IS AT STAKE. HE STRESSED THAT AN AGREED PROCEDURE MUST BE NEGOTIATED IN ORDER TO INSURE THAT POLAND WILL BE ADMITTED TO CONSULTATIVE STATUS. DRAWING ON REFTELS B AND C, U.S. REP STATED THAT U.S. WOULD BE HAPPY TO DISCUSS ITS PROPOSALS WITH ANY TREATY MEMBER, BUT POINTED OUT THE BASIC INCOMPATIBILITY BETWEEN THEM AND THE SNT. HEAP STATED HE FULLY RECOGNIZED THE DIFFICULTIES BUT STRESSED THAT THE MOST IMPORTANT THING WAS THAT SOME ATTEMPT BE MADE TO RESOLVE
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THE ISSUE. HEAP THEN ASKED IF IT WAS THE FEELING OF THE GROUP THAT HE SHOULD PROCEED WITH DISCUSSIONS WITH THE U.S. AND OTHER INTERESTED PARTIES TO TRY TO RESOLVE THIS ISSUE BEFORE JULY 25. THERE WAS NO OBJECTION TO THIS. IN LIGHT OF THE LACK OF PROGRESS IN RESOLVING PROCEDURAL ISSUE, IT WAS AGREED THAT THERE WOULD BE NO POINT IN

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HOLDING ANOTHER MONTHLY PREPARATORY PRIOR TO THE AD HOC
CONSULTATIVE.

9. OTHER BUSINESS. THERE WAS DISCUSSION OF LETTER RE-
CEIVED BY ALL TREATY MEMBER AMBASSADORS IN LONDON FROM
JON TINKER, DIRECTOR OF EARTHSCAN, WHICH DESCRIBES ITSELF
AS A MEDIA SERVICE COVERING SELECTED GLOBAL ENVIRONMENT
PROBLEMS. IT IS FUNDED BY UNEP AND OPERATED ON AN EDI-
TORIALLY INDEPENDENT BASIS FOR THE INTERNATIONAL INSTI-
TUTE FOR ENVIRONMENT AND DEVELOPMENT (IIED). IIED IS
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INCORPORATED IN BOTH THE U.S. AND UK AND WAS INAUGURATED
IN 1973 WITH THE SUPPORT INTER ALIA OF ROCKEFELLER AND
FORD FOUNDATIONS. LETTER ANNOUNCES THAT EARTHSCAN IS
ORGANIZING ON JULY 25 A ONE-DAY PRESS SEMINAR IN LONDON
ON FUTURE OF ANTARCTICA. SPEAKERS WILL BE AMBASSADOR
SHIRLEY AMERASINGHE OF SRI LANKA; DR. FINN SOLLIE,
DIRECTOR OF NANSEN FOUNDATION IN NORWAY; DR. RICHARD LAWS,

DIRECTOR OF THE BRITISH ANTARCTIC SURVEY; AND LEIGH RETINER OF THE U.S. IT ADDS THAT WITHIN CONFINES OF ONE-DAY MEETING IT IS NOT PRACTICABLE TO COVER "ALL THE KEY POINTS OF VIEW ON ANTARCTICA" AND FOR THIS REASON EARTHSCAN WOULD BE HAPPY TO CIRCULATE TO PARTICIPANTS ANY WRITTEN STATEMENT OR DOCUMENT WHICH TREATY MEMBER GOVERNMENTS WOULD LIKE TO MAKE AVAILABLE. THERE IS ALSO AN INVITATION TO AN EVENING RECEPTION. NONE OF THE TREATY MEMBER REPS PRESENT HAD YET DECIDED HOW TO RESPOND TO THE LETTER, BUT GENERAL FEELING SEEMED TO BE THAT POLITE REGRETS WOULD BE BEST RESPONSE. PLEASE ADVISE HOW WE SHOULD RESPOND TO EARTHSCAN LETTER.

10. COMMENT: FOLLOWING THE MEETING HEAP REVIEWED SITUATION WITH U.S. REP. HE SAID IT APPEARED FROM MEETING THAT ALL MEMBERS BUT U.S. WERE WILLING TO ACCEPT SNT WITH MINOR MODIFICATIONS. AT SAME TIME THERE WAS OBVIOUSLY A GREAT DEAL OF SYMPATHY, WHICH HE SHARES, FOR MORE FLEXIBLE U.S. APPROACH. HE REQUESTED THAT U.S. CONSIDER SENDING SOMEONE TO LONDON TO DISCUSS PROPOSALS IN ORDER TO DETERMINE WHETHER AND WHERE COMPROMISE MAY BE MADE. WE TOLD HEAP THAT WE WOULD RAISE THIS PROMPTLY WITH WASHINGTON AND ASK FOR IMMEDIATE GUIDANCE. IN LIGHT OF GENERAL WILLINGNESS TO ACCEPT A MODIFIED SNT AND VIRTUALLY NANIMOUS DESIRE ON THE PART OF THE TREATY MEMBERS THAT NEGOTIATIONS ON THE PROPOSALS BE CARRIED FURTHER, WE
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SUPPORT HEAP'S REQUEST. THERE IS SYMPATHY AMONG TREATY MEMBERS FOR U.S. APPROACH AND THIS MIGHT BE BEST WAY OF EXPLORING HOW FAR WE CAN CAPITALIZE ON THAT SUPPORT. IF DECISION IS MADE TO SEND SOMEONE FOR SUBJECT DISCUSSIONS, VISIT SHOULD BE SCHEDULED PRIOR TO HEAP'S DEPARTURE FOR ANOTHER MEETING ON THE EVENING OF JULY 12.

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